

August 17, 2005

Howard B. Bernstein
RPS Program Manager
Massachusetts Division of Energy Resources (DOER)
100 Cambridge Street, Suite 1020
Boston, MA 02114



Re: Notice of Inquiry (NOI) regarding proposed revisions of the Renewable Energy Portfolio Standard (RPS) regulations, 225 CMR 14.00

Dear Mr. Bernstein:

On behalf of enXco, Inc., I am pleased to submit these comments on the above NOI. enXco Inc. is a leading developer, owner, and operator of wind energy facilities in North America, with some 300 mW of wind energy facilities in current ownership or operation. enXco is also one of the largest providers of wind turbine operations and maintenance services in the world, operating over 4,000 wind turbines.

The Northeastern Office of enXco is currently developing the Hoosac Wind project, a 20-turbine, 30 mW commercial wind generation facility located in the towns of Florida and Monroe, Massachusetts. enXco is also the developer for the 30 mW – 45 mW Deerfield Wind project, an expansion of the existing Searsburg wind power facility, in Searsburg, Vermont. EnXco's comments on this NOI are informed by this first-hand experience with wind power development in Massachusetts and Vermont.

The Hoosac Wind project will provide significant environmental and energy benefits to the Commonwealth. As the first commercial-scale wind farm in Massachusetts, the project will provide the average annual energy needs from a renewable source for approximately 9,000 homes. The project will displace an estimated 213 tons of sulfur dioxide (a major component of acid rain), 74 tons of nitrogen oxides (a major component of smog), and 60,000 tons of carbon dioxide (a major greenhouse gas) that would be produced each year by a conventional fossil-fueled power plant producing the same amount of electricity. As further evidence of the project's consistency with state-level renewable energy goals, the Massachusetts Technology Collaborative, acting through its Green Power Partnership, has committed to purchase a combined 75% – 100% of the project's Renewable Energy Credits (RECs) during years 6 through 15 of its operation. EOEa Secretary Herzfelder stated in the project's MEPA Certificate, issued in December 2003:

“Symbolically and substantively, the project represents an important commitment to the future of renewable energy in Massachusetts, and an affirmation of the Commonwealth's resolve to reduce dependence on fossil fuels. The Hoosac Wind Project is an important milestone for renewable energy production in Massachusetts.”
(MEPA Certificate, p.5)



Our experience with the Hoosac and Deerfield wind projects has shown that the development of wind power and other new renewable energy facilities in Massachusetts and the other New England states faces significant regulatory hurdles. State and local permitting for Hoosac Wind began in the fall of 2003. The project has now received all of its major state and local permits; construction is scheduled to begin this fall, upon resolution of a pending appeal, and to be completed in the summer of 2006. This time frame of nearly three years is not unusual for commercial wind development in New England. As an extreme example, the Cape Wind project entered the permitting process in 2001, and it has not yet concluded the initial NEPA/MEPA process.

During this extended permitting process, the project's ability to offer RECs under the 1997 Massachusetts Energy Deregulation Act, chapter 25A, section 11F of the General Laws, and the DOER Regulations at 225 CMR 14.00 has been a critical factor in ensuring its ability to obtain financing. For this reason, we wish to register our concern over the proposed changes described in the NOI. DOER needs to exercise extreme caution in making regulatory changes that may prove counter-productive to the development of new wind power and other truly clean renewable energy sources in Massachusetts and New England.

Massachusetts has been a national leader to promoting the development of renewable energy, when in 1997 the legislature enacted the Renewable Portfolio Standards (RPS) under the Energy Deregulation Act. Massachusetts has reaffirmed its commitment to renewable energy through its issuance of the *Climate Change Action Plan* (Spring 2004), and its adoption of Resolution 27-7 of the Annual Conference of New England Governors and Eastern Canadian Premiers (August 2002).¹

We believe that the NOI is contrary to the intent of the Legislature in creating the RPS, which sought to expand the use of renewable energy by requiring energy retailers to purchase specific amounts of renewable energy from new sources. To now direct many of these incentives toward biomass plants built prior to 1997, DOER would be undermining the legislative purpose of the RPS. By re-directing incentives from new renewable development to pre-1997 existing renewables, implementation of the NOI changes would reduce the ability of the RPS to meet any of the DOER's stated RPS goals.

All participants in an RPS compliance market, utilities -- suppliers, generators, and others -- deserve and require market stability in order to make decisions. The rules establishing which types of resources are eligible to meet RPS obligations must be highly stable. This means making as few changes as possible, and only using the utmost discretion. If changes are made, any changes to eligibility definitions must be highly precise, and they must provide the market with significant notice between a decision to change the RPS and when it takes effect: at least 2-3 years.

¹ In these documents, the Commonwealth has adopted climate change goals to reduce emissions of greenhouse gases to 1990 levels by 2010; to reduce greenhouse gas emissions to 10% below 1990 levels by 2020; and ultimately to reduce greenhouse gas emissions by 75% - 85% to achieve sustainability and climate stability.



In addition to undermining future investment in new renewable facilities, the eligibility changes proposed in the NOI also undermine the investments made by developers since the RPS was established because they are likely to drive a dramatic reduction in the value of renewable energy from facilities both supplying the RPS market today and currently under development. If enacted, the NOI would have the potential of opening up hundreds of megawatts of existing biomass to receive RECs, this would reduce the value of RECs to non-emitting, new, renewable energy development such as wind power projects. This change to the REC market in the early years of the RPS would create market uncertainty and instability, making it more difficult for wind energy projects to secure financing.

We are not entirely opposed to modifications of the current regulatory scheme. Rather, we endorse the thoughtful and detailed suggestions of the Union of Concerned Scientists (UCS) and the Conservation Law Foundation (CLF). Existing biomass facilities that have already received case-by-case approvals by DOER could offer RECs, so long as the overall RPS targets are adjusted upwards accordingly. If other existing biomass facilities propose to qualify for offering RECs, they should be required to meet stringent repowering standards, in addition to the Commonwealth's low-emissions standards. In addition, the RPS targets should be adjusted upwards. The potential for displacement of truly clean new renewable facilities, like wind power, should be addressed through a cap, or a system of deep discounting, on the RECs offered by biomass facilities.

Thank you for this opportunity to comment on the NOI. We would be pleased to participate further in this and other policy initiatives affecting the development of renewable energy facilities in Massachusetts.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Zimmerman".

John Zimmerman
For enXco Northeast, Inc.

cc: Doug Foy, OCD
Sonia Hamel, OCD
Robert Golledge, DEP
Robert Pratt, MTC
Hon. D. Bosley, State House of Representatives
Hon. A. Nuciforo, State Senate
Deborah Donovan, UCS
Seth Kaplan, CLF